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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/709,136

04/15/2004

Dennis Joseph Wilfrid Dube

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07/22/2008

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EXAMINER

LIN, WEN TAI

ART UNIT

PAPER NUMBER

2154

MAIL DATE

DELIVERY MODE

07/22/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/709,136	<b>Applicant(s)</b> DUBE, DENNIS JOSEPH WILFRID	
	<b>Examiner</b> Wen-Tai Lin	<b>Art Unit</b> 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-14 are presented for examination.
2. It is noted that this instant office action is made non-final because the examiner's has reversed his position on the allowability of the claims in view of newly found prior art.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-14 are rejected under 35 U.S.C. 103(a) for being unpatenable over Blackett et al. [U.S. Pat. No. 6792337] in view of Johnson et al. [U.S. PGPub 20040354648].
5. As to claim 1, Blackett teaches the invention substantially as claimed including a method of communicating between an automation device [e.g., 705-710, Fig.7; col. 15, line 49 – col.17, line 20] and a web browser [e.g., 740, Fig.7] comprising of the steps of: sending a request message from said web browser [e.g., 740, Fig.7] to a process [e.g., 700, Fig.7] that encapsulates

said request message [e.g., col.8, lines 34-46]; transmitting said request message to said automation device; responding to said request message by the automation device with a reply message using the MODBUS type protocol [e.g., col. 7, lines 12-16]; transmitting said reply message to the process; reformatting said reply message such that the message is understandable by said web browser; sending the reformatted reply message to the web browser [e.g., col.16, lines 5-15 and 43-50].

Backlett teaches encapsulating information formed in one protocol in another protocol used by the information receiver is one known process for overcoming the protocol difference [e.g., col. 8, lines 34-46]. Backlett does not specifically teach that the feature of encapsulating a browser request in a MODBUS type protocol.

However, in the same field of endeavor Johnson teaches that field devices can be embedded with a web server so as to be communicate with an Internet browser (i.e., over a HTTP protocol), wherein the MODBUS is included as one of the field bus and encapsulation technique is recommended for transmitting requests written in local protocol to a remote receiver that uses a different protocol [e.g., paragraphs 9, 20 and 154].

It would have been obvious to one of an ordinary skill in the art to have embedded a web server in Backlett's slave devices because: (1) embedding a web server in a field device is well known in industrial field control; and (2) by doing so it would greatly simplify the protocol processing tasks at Backlett's master device [note that Blackett's master device is burdened to handle all the protocol conversion tasks associated with the slave devices it interfaces].

6. As to claims 2-3, Blackett further teaches that MODBUS/TCP and serial MODBUS such as RS232 are popular MODBUS type of protocols [e.g., col.8, line 59 – col.9, line 19].

7. As to claims 4-7, Blackett further teaches that the browser request messages may use HTTP HTML, XML [e.g., col. 6, lines 50-63]. Although Blackett is silent about using SGML and XHTML as possible languages for the request messages, an ordinary skill would have choose SGML and XHTML as alternatives also because these are popularly used languages for formatting a web page.

8. As to claims 8-14, since the features in these claims could also be found in claims 1-7, they are rejected for the same reasons set forth in the rejection of claims 1-7 above.

9. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

### ***Conclusion***

**Examiner note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially

teaching all or part of the claimed invention, as well as the contest of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday (8:00-5:00) .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571)272-1915. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(571) 273-8300 for official communications; and

(571) 273-3969 for status inquires draft communication.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wen-Tai Lin

July 17, 2008

/Wen-Tai Lin/

Primary Examiner, Art Unit 2154

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